

AMENDED IN SENATE MARCH 17, 2016

**SENATE BILL**

**No. 1028**

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**Introduced by Senator Hill**

February 12, 2016

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An act to add ~~Sections 761.1 and 761.2 to Chapter 6 (commencing with Section 8385) to Division 4.1 of the Public Utilities Code, relating to public utilities.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1028, as amended, Hill. Electrical corporations: *local publicly owned electric utilities: electrical cooperatives*: wildfire mitigation plans.

The California Constitution establishes the Public Utilities Commission, authorizes the commission to establish rules for all public utilities, subject to control by the Legislature, and authorizes the Legislature, unlimited by the other provisions of the California Constitution, to confer additional authority and jurisdiction upon the commission that is cognate and germane to the regulation of public utilities. The Public Utilities Act provides the commission with broad authority over public utilities, including ~~electrical corporations and local publicly owned electric utilities or electrical cooperatives: corporations,~~ while *local publicly owned electric utilities and electrical cooperatives are under the direction of their governing boards*. Existing law establishes requirements for equipment, practices, and facilities for public utilities, including standards, enforceable by the commission, for installation and maintenance of wires or cables used to conduct electricity. Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

~~This bill would require each electrical corporation and each corporation, local publicly owned electric utility or utility, and electrical cooperative to construct and maintain its electric plant construct, maintain, and operate its electrical lines and equipment in a manner that would prevent it from causing a catastrophic wildfire. will minimize the risk of catastrophic wildfire posed by those electrical lines and equipment. The bill would require each electrical corporation and each local publicly owned electric utility or electrical cooperative to annually prepare a wildfire mitigation plan. The bill would require each electrical corporation to submit its plan to the commission and each local publicly owned electric utility or electrical cooperative to submit its plan to its governing board for approval, as specified. The bill would require the commission and the governing board to accept, accept provisionally, or reject the submitted plan, as specified. The bill would require the governing board of a local publicly owned electric utility or electrical cooperative to determine whether any portion of the geographical area where the utility's overhead electrical lines and equipment are located has a significant risk of catastrophic wildfire resulting from those electrical lines and equipment and, if so, would require the local publicly owned electric utility or electrical cooperative to annually present to the board for its approval those wildfire mitigation measures the utility intends to undertake to minimize the risk of its overhead electrical lines and equipment causing a catastrophic wildfire. By placing additional duties upon local publicly owned electric utilities, the bill would impose a state-mandated local program. Because a violation of these provisions by an electrical corporation would be a crime, the bill would impose a state-mandated local program.~~

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for specified reasons.*

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.~~

~~With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs~~

~~so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Chapter 6 (commencing with Section 8385) is  
2     added to Division 4.1 of the Public Utilities Code, to read:

3  
4                     CHAPTER 6. WILDFIRE MITIGATION  
5

6     8385. (a) For purposes of this chapter, the following shall  
7     apply:

8         (1) "Compliance period" means a one-year period beginning  
9         approximately with the start of the fall fire season for the service  
10        territory of the electrical corporation, electrical cooperative, or  
11        local publicly owned electric utility.

12       (2) "Electrical cooperative" has the same meaning as defined  
13       in Section 2776.

14       (b) The commission shall supervise an electrical corporation's  
15       compliance with the requirements of this chapter pursuant to the  
16       Public Utilities Act (Part 1 (commencing with Section 201) of  
17       Division 1). Nothing in this chapter provides the commission with  
18       authority or jurisdiction over an electrical cooperative or local  
19       publicly owned electrical corporation.

20     8386. (a) Each electrical corporation shall construct, maintain,  
21     and operate its electrical lines and equipment in a manner that  
22     will minimize the risk of catastrophic wildfire posed by those  
23     electrical lines and equipment.

24       (b) Each electrical corporation shall annually, on or before  
25       February 1, prepare and submit a wildfire mitigation plan for the  
26       next compliance period to the commission for acceptance. The  
27       wildfire mitigation plan shall include:

28         (1) An accounting of the responsibilities of persons responsible  
29         for executing the plan.

30         (2) The objectives of the plan.

31         (3) A description of the preventive strategies and programs to  
32         be adopted by the electrical corporation to minimize the risk of its  
33         electrical lines and equipment causing catastrophic wildfires.

1     (4) A description of the metrics the electrical corporation plans  
2     to use to evaluate the plan's performance and the assumptions  
3     that underlie the use of those metrics.

4     (5) A discussion of how the application of previously identified  
5     metrics to previous plan performances has informed the plan.

6     (6) A description of the processes and procedures the electrical  
7     corporation will use to do the following:

8     (A) Monitor and audit the implementation of the plan.

9     (B) Identify any deficiencies in the plan or the plan's  
10    implementation and correct those deficiencies.

11    (C) Monitor and audit the effectiveness of inspections, including  
12    inspections performed by contractors, carried out under the plan.

13    (7) Any other information that the commission may require.

14    (c) The commission shall act expeditiously, but no later than  
15    30 days before the beginning of the compliance period, to accept,  
16    accept provisionally, or reject the electrical corporation's wildfire  
17    mitigation plan.

18    (1) Any provisional acceptance by the commission shall state  
19    all of the following:

20    (A) The period for which the provisional acceptance will be in  
21    force.

22    (B) The extent to which the wildfire mitigation plan has been  
23    accepted.

24    (C) Any limitations or conditions that shall apply during the  
25    provisional acceptance period.

26    (2) If the commission rejects the electrical corporation's wildfire  
27    mitigation plan, the commission shall provide the electrical  
28    corporation with an opportunity to resubmit a wildfire mitigation  
29    plan within 30 days.

30    (3) If the commission determines that an electrical corporation  
31    will not be able to prepare an acceptable wildfire mitigation plan  
32    before the beginning of the compliance period, the commission  
33    may determine the contents of the electrical corporation's wildfire  
34    mitigation plan.

35    (d) The commission shall conduct or contract for audits to  
36    determine if an electrical corporation is satisfactorily complying  
37    with its accepted wildfire mitigation plan.

38    (e) The commission may contract with an independent third  
39    party to evaluate wildfire mitigation plans or to conduct audits

1 *and inspections authorized by this section, and may require*  
2 *electrical corporations to reimburse any related expenses.*

3 8387. (a) *Each local publicly owned electric utility and*  
4 *electrical cooperative shall construct, maintain, and operate its*  
5 *electrical lines and equipment in a manner that will minimize the*  
6 *risk of catastrophic wildfire posed by those electrical lines and*  
7 *equipment.*

8 (b) *The governing board of the local publicly owned electric*  
9 *utility or electrical cooperative shall determine, based on historical*  
10 *fire data and local conditions, and in consultation with the fire*  
11 *departments or other entities responsible for control of wildfires*  
12 *within the geographical area where the utility's overhead electrical*  
13 *lines and equipment are located, whether any portion of that*  
14 *geographical area has a significant risk of catastrophic wildfire*  
15 *resulting from those electrical lines and equipment.*

16 (c) *If, pursuant to subdivision (b), the governing board*  
17 *determines that there is a significant risk of catastrophic wildfire*  
18 *resulting from the utility's electrical lines and equipment, the local*  
19 *publicly owned electric utility or electrical cooperative shall*  
20 *annually present to the board for its approval those wildfire*  
21 *mitigation measures the utility intends to undertake to minimize*  
22 *the risk of its overhead electrical lines and equipment causing a*  
23 *catastrophic wildfire.*

24 SEC. 2. *No reimbursement is required by this act pursuant to*  
25 *Section 6 of Article XIII B of the California Constitution because*  
26 *a local agency or school district has the authority to levy service*  
27 *charges, fees, or assessments sufficient to pay for the program or*  
28 *level of service mandated by this act or because costs that may be*  
29 *incurred by a local agency or school district will be incurred*  
30 *because this act creates a new crime or infraction, eliminates a*  
31 *crime or infraction, or changes the penalty for a crime or*  
32 *infraction, within the meaning of Section 17556 of the Government*  
33 *Code, or changes the definition of a crime within the meaning of*  
34 *Section 6 of Article XIII B of the California Constitution.*

35 SECTION 1. ~~Section 761.1 is added to the Public Utilities~~  
36 ~~Code, to read:~~

37 761.1. (a) ~~For purposes of this section, the following terms~~  
38 ~~shall have the following meanings:~~

39 (1) ~~“Electric plant” means “electric plant” as defined in Section~~  
40 ~~217.~~

1     ~~(2) “Compliance period” means a one-year period beginning~~  
2     ~~approximately with the start of the fall fire season.~~

3     ~~(b) Each electrical corporation shall construct and maintain its~~  
4     ~~electric plant in a manner that will prevent the electric plant from~~  
5     ~~causing a catastrophic wildfire.~~

6     ~~(c) Each electrical corporation shall annually, on or before April~~  
7     ~~1, prepare and submit a wildfire mitigation plan for the next~~  
8     ~~compliance period to the commission for acceptance. The wildfire~~  
9     ~~mitigation plan shall include:~~

10    ~~(1) An accounting of the responsibilities of persons responsible~~  
11    ~~for executing the plan.~~

12    ~~(2) The objectives of the plan.~~

13    ~~(3) A description of the preventative strategies and programs~~  
14    ~~to be adopted by the electrical corporation to minimize the risk of~~  
15    ~~its electric plant causing catastrophic wildfires.~~

16    ~~(4) A description of the metrics the electrical corporation plans~~  
17    ~~to use to evaluate the plan’s performance and the assumptions that~~  
18    ~~underlie the use of those metrics.~~

19    ~~(5) A discussion of how the application of previously identified~~  
20    ~~metrics to previous plan performances has informed the plan.~~

21    ~~(6) A description of the processes and procedures the electrical~~  
22    ~~corporation will use to do the following:~~

23    ~~(A) Monitor and audit the implementation of the plan.~~

24    ~~(B) Identify any deficiencies in the plan or the plan’s~~  
25    ~~implementation and correct those deficiencies.~~

26    ~~(C) Monitor and audit the effectiveness of inspections, including~~  
27    ~~inspections performed by contractors, carried out under the plan.~~

28    ~~(7) Any other information that the commission may require.~~

29    ~~(d) The commission shall act expeditiously, but no later than~~  
30    ~~30 days before the beginning of the compliance period, to accept,~~  
31    ~~accept provisionally, or reject the electrical corporation’s wildfire~~  
32    ~~mitigation plan.~~

33    ~~(1) Any provisional acceptance by the commission shall state~~  
34    ~~all of the following:~~

35    ~~(A) The period for which the provisional acceptance will be in~~  
36    ~~force.~~

37    ~~(B) The extent to which the wildfire mitigation plan has been~~  
38    ~~accepted.~~

39    ~~(C) Any limitations or conditions that shall apply during the~~  
40    ~~provisional acceptance period.~~

1     ~~(2) If the commission rejects the electrical corporation's wildfire~~  
2 ~~mitigation plan, the commission shall provide the electrical~~  
3 ~~corporation with an opportunity to resubmit a wildfire mitigation~~  
4 ~~plan within 30 days.~~

5     ~~(3) If the commission determines that an electrical corporation~~  
6 ~~will not be able to prepare an acceptable wildfire mitigation plan~~  
7 ~~before the beginning of the compliance period, the commission~~  
8 ~~may determine the contents of the electrical corporation's wildfire~~  
9 ~~mitigation plan.~~

10    ~~(e) The commission shall conduct or contract for audits to~~  
11 ~~determine if an electrical corporation is satisfactorily complying~~  
12 ~~with its accepted wildfire mitigation plan.~~

13    ~~(f) The commission may contract with an independent third~~  
14 ~~party to evaluate wildfire mitigation plans or to conduct audits and~~  
15 ~~inspections authorized by this section, and may require electrical~~  
16 ~~corporations to reimburse any related expenses.~~

17    ~~SEC. 2. Section 761.2 is added to the Public Utilities Code, to~~  
18 ~~read:~~

19    ~~761.2. (a) For purposes of this section, the following terms~~  
20 ~~shall have the following meanings:~~

21    ~~(1) "Electric plant" means "electric plant" as defined in Section~~  
22 ~~217.~~

23    ~~(2) "Compliance period" means a one-year period beginning~~  
24 ~~approximately with the start of the fall fire season.~~

25    ~~(b) Each local publicly owned electric utility or electrical~~  
26 ~~cooperative shall construct and maintain its electric plant in a~~  
27 ~~manner that will prevent the electric plant from causing a~~  
28 ~~catastrophic wildfire.~~

29    ~~(c) Each local publicly owned electric utility or electrical~~  
30 ~~cooperative shall annually prepare and submit a wildfire mitigation~~  
31 ~~plan for the next compliance period to its governing board for~~  
32 ~~acceptance.~~

33    ~~(d) Each governing board of a local publicly owned electric~~  
34 ~~utility or electrical cooperative shall act to accept, accept~~  
35 ~~provisionally, or reject the wildfire mitigation plan submitted by~~  
36 ~~the local publicly owned electric utility or electrical cooperative.~~

37    ~~SEC. 3. No reimbursement is required by this act pursuant to~~  
38 ~~Section 6 of Article XIII B of the California Constitution for certain~~  
39 ~~costs that may be incurred by a local agency or school district~~  
40 ~~because, in that regard, this act creates a new crime or infraction,~~

1 eliminates a crime or infraction, or changes the penalty for a crime  
2 or infraction, within the meaning of Section 17556 of the  
3 Government Code, or changes the definition of a crime within the  
4 meaning of Section 6 of Article XIII B of the California  
5 Constitution.  
6 However, if the Commission on State Mandates determines that  
7 this act contains other costs mandated by the state, reimbursement  
8 to local agencies and school districts for those costs shall be made  
9 pursuant to Part 7 (commencing with Section 17500) of Division  
10 4 of Title 2 of the Government Code.